

OCT 23 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ZAMEER R. AZAM,

Plaintiff - Appellant,

v.

CITY OF PLEASANTON; et al.,

Defendants - Appellees.

No. 08-15812

D.C. No. 3:05-CV-00510-MHP

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Northern District of California  
Marilyn H. Patel, District Judge, Presiding

Submitted October 13, 2009<sup>\*\*</sup>

Before: B. FLETCHER, LEAVY, and RYMER, Circuit Judges.

Zameer R. Azam, a California state prisoner, appeals pro se from the district court's two post-judgment orders in his 42 U.S.C. § 1983 action claiming

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

defamation, denial of due process rights, and malicious prosecution. We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion, *Harman v. Harper*, 7 F.3d 1455, 1458 (9th Cir. 1993), and we affirm.

The district court did not abuse its discretion when it denied Azam’s post-judgment motions seeking enlargement of time to file a motion for reconsideration or for relief from judgment. The district court had no power to extend the time to file a Rule 59(e) motion. *See* Fed. R. Civ. P. 6(b)(2) (“A court must not extend the time to act under Rule[] 59(e) . . .”); Fed. R. Civ. P. 59(e) (“A motion to alter or amend a judgment must be filed no later than 10 days after the entry of the judgment.”); *Harman*, 7 F.3d at 1458. The district court also properly explained that Rule 60(a) does not have a specific deadline and that Azam had “a reasonable time” but less than a year to file a Rule 60(b) motion.

As stated in the August 19, 2008 order, Azam did not file a timely tolling motion and did not file a notice of appeal within 30 days of entry of judgment. We therefore do not consider the parties’ contentions regarding summary judgment.

Azam’s motion to hear the appeal on the entire district court record is denied and the requests to take judicial notice are denied as unnecessary.

**AFFIRMED.**